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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,036	10/10/2001	Takayoshi Nakazato	P21334.P06	5056

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RESTON, VA 20191

EXAMINER

MARKS, CHRISTINA M

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 05/09/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,036

Applicant(s)

NAKAZATO, TAKAYOSHI

Examiner

C. Marks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 and 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973). The Examiner asserts that the material contained within Japanese Patent Application No. 2001-096722 is essential to the application due to the fact it was incorporated in its entirety. Therefore, since no English translation of the Application, the essential subject matter incorporated in its entirety would not be available.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 7 is directed towards computer program that is related to display type software processing. Such claimed computer programs do not define any structural and functional interrelationships between the program and other claimed aspects of the invention that permit the programs functionality to be realized. To be statutory, the program must be

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embodied in a tangible medium to define the functional interrelationship between the program and the rest of the computer.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 and 7-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Ando et al. (US Patent No. 6,200,138).

Ando et al. disclose a game apparatus that can execute a game program (Column 3, lines 5-6) wherein the game program is responsible for a executing a game that includes a display control system that displays in at least part of the game screen a characters position within a game field as well as a predetermined area around the character (FIG 7A). The program and

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system are able to recognize the target destination position of the player's character (Column 1, lines 10-11) that is fixed (Column 1, line 18). Inherently, a recognition-type system is used to recognize the target position as well as the player's. The program and system also recognizes the current position of the player as a movable object (Column 4, line 4). The current position is recognized in order to provide an indicating means directing the player towards the destination (Column 4, lines 9-11). When the target position is not displayed on the screen (FIG 7A), an indicator (FIG 7A) in the form of an arrow is displayed to indicate a direction extending towards the target position (Column 8, lines 65-67). The indicator is displayed in the vicinity of an end portion of the display (FIG 7A, arrows near the end portion of the top of the screen) and point in the target position direction (Column 8, line 57-58). The arrows are a result of recognition of the player entering an area that is near a direction indicating position (Column 8, lines 57-59). Ando et al. also disclose that the indicator can periodically change brightness, as it is capable of flashing (Column 9, lines 19-22).

Further, Ando et al. disclose a storage medium (Column 16, line 43) for storing the program used to execute the process disclosed. Though the exact type of medium is not disclosed, it would be inherent to the system that the medium be a computer readable recording medium in order for the device to be able to read the contents of the program to be able to execute the process.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando et al. (US Patent No. 6,200,138).

What Ando et al. disclose has been discussed above and is thereby incorporated herein.

Ando et al. do not explicitly disclose a game control method in associate with the game apparatus executing a program. However, it is notoriously well known in the art that a game program is essentially a series of steps and therefore a method, which is also a series of steps, would be obvious to one of ordinary skill in the art based upon a disclosure of a program.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent Application Publication 2002/0137557: Game that obtains data position according to a position within a world map as well as correlating the position of the character within a world map.

JP 07-008632: English translation of the Japanese documents wherein a player is directed towards an enemy character by a marker. Thus the player position and the enemy position are ascertained and the player is directed towards the enemy in order to aid attack.

US Patent No. 5,588,914: Virtual reality system where a user can be guided within a virtual space to a specific destination by following a leader object that is projected overhead.

US Patent No. 6,540,612: Video game system wherein a player is presented with a view of a predetermined area and has an enemy to attack and is provided with guidance hints to aid in the attack.

US Patent No. 6,500,069: Gaming device wherein the camera angles can be shifted by the character in order to provide a greater view when desired.

US Patent No. 6,267,674: Virtual objects are in a contained space wherein the movement of player characters is controlled and the device sets a movement field defining the direction in which the player can move.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Friday (7:30AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, V. Martin-Wallace can be reached on (703)-308-1148. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 for regular communications and (703)-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

cmm

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May 2, 2003

Michael O'Neill

**MICHAEL O'NEILL
PRIMARY EXAMINER**